

Remarks:

After entry of this Amendment, claims 1-20 are pending in the subject application. Claims 1-19 have been amended to overcome the Examiner's rejections. Reconsideration of the application as amended is respectfully requested.

The Examiner rejected claims 1-6 and 8-13 under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Examiner asserts that "the power clamp is not being disclosed as being a clamp without the arm because what will actually clamp."

To overcome the rejection, Applicant has amended the claims by citing a clamp arm in the preamble of the claims. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the § 112, first paragraph, rejections to claims 1-6 and 8-13.

The Examiner rejected claims 14-18 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner stated that claims 14-18 lack proper antecedent basis as they depend on a claim that does not exist.

Applicant has amended claim 14 to depend on claim 9. Claims 15-18 all depend on claim 14. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the § 112, second paragraph, rejections to claims 14-18.

The Examiner rejected claims 1 and 4-8 under 35 U.S.C. 102(a) as being

anticipated by Dellach, et al., U.S. Patent Application Publication No. US2002/0195761.

The Examiner contends that Dellach, et al. discloses a powered clamp having a housing (18) with two high-strength planar plates (24), two lower-strength member (22), internal means with elongated slot (28), pins (72), clamping arm (20).

Applicant respectfully notes that the Examiner's rejection under 35 U.S.C. 102(a) is improper. In reviewing the language of 35 U.S.C. 102(a), the statute states the following:

"A person shall be entitled to a patent unless - -
(a) the invention was known or used by *others* in this country, or patented or described in a printed publication in this or a foreign country, *before* the invention thereof by the applicant for patent."

The inventors listed in the Dellach, et al. reference are also listed as inventors in the subject application. In addition, the Dellach reference and the subject application share common assignees. Therefore, the disclosure in the Dellach, et al. publication was not "known or used by *others*." In addition, the Dellach, et al. reference was not published before the filing of the subject application. Thus, the Dellach, et al. reference does not comply with the statutory requirements of 35 U.S.C. 102(a). Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the 35 U.S.C. 102(a) rejections to claims 1 and 4-8.

The Examiner rejected claim 3 under 35 U.S.C. 103(a) as being unpatentable over Dellach, et al., U.S. Patent Application Publication No. US2002/0195761. The Examiner contends that Dellach, et al. discloses the claimed invention except for the use of metal and aluminum. The Examiner asserts that it would have been obvious to one having

ordinary skill in the art at the time the invention was made to have used metal and aluminum, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Again, Applicant respectfully notes that the Examiner's § 103(a) rejection is improper. Since the reference relied upon in the § 103(a) rejection must comply with § 102, the § 103(a) rejection is improper because the Dellach, et al. reference is an improper § 102(a) reference, as noted and explained above. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the 103(a) rejection to claim 3.

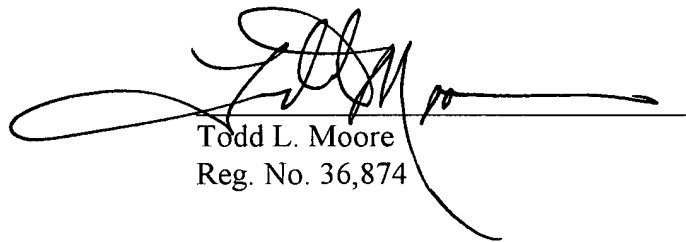
The Examiner stated that claims 2 and 10-13 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner further asserted that the § 112 first and second paragraphs would have to be overcome as well. Applicant believes that the independent claims have not been validly rejected, and therefore, Applicant has not rewritten claims 2 and 10-13.

The Examiner rejected to claim 20 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant respectfully notes that claim 20 is dependent on independent claim 19. The Examiner has not rejected claim 19 in the Office Action, and therefore, Applicant asserts that the objection to claim 20 is improper. Thus, Applicant respectfully requests the Examiner reconsider and withdraw the objection to claim 20.

For the foregoing reasons and in light of the claims as amended, Applicant respectfully requests that the rejections be withdrawn and the claims be allowed to proceed to issue.

The Examiner is invited to contact Applicant's undersigned counsel at (734) 662-0270 or by email at tlmyb@aol.com if there are any questions.

Respectfully Submitted,



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